

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JARRITOS, INC.,

No. C-05-2380 JSW (EMC)

Plaintiff,

v.

LOS JARRITOS, *et al.*,

Defendants.

**ORDER RE JOINT LETTER RE
DISCOVERY AND DENYING
PLAINTIFF'S MOTION TO COMPEL
DISCOVERY AND COMMUNICATION
OF SETTLEMENT OFFERS**

(Docket Nos. 28, 37)

The parties' discovery dispute came on for hearing on May 3, 2006. Having considered the papers filed by the parties and argument of counsel, and good cause appearing therefor, the Court hereby orders as follows.

The parties must meet and confer in good faith on all discovery disputes. The meet and confer shall focus on specific matters in dispute (*e.g.* document request by document request). The meet and confer efforts thus far fail to comply with the Federal Rules of Civil Procedure 37 and Local Rule 37-1. If a telephone conference does not resolve the differences, counsel shall meet in person. An exchange of letters and e-mails does not satisfy the meet and confer requirements. Any future failure to comply with these rules will result in the imposition of sanctions by this Court.

The parties shall meet and confer and resolve the disputes described in their joint letter of April 5, 2006, taking into account the following observations and directives of the Court.

1. The parties shall use as a template the N.D. Cal. Protective order. However, as to documents which involve potential privacy rights of third parties (*e.g.* enforcement letters sent to

1 other businesses), these documents (and any detailed description of their contacts functionally
2 equivalent to disclosure of the documents themselves) shall be used for litigation purposes only.
3 Defense counsel may contact these individuals in the course of this litigation. Should any such
4 individual consent to disclosure of such documents, thereby eviscerating any privacy right, then the
5 protective order shall no longer apply to such document.

6 2. As to document responses, documents are to be produced in a manner consistent with
7 Federal Rule 34. Moreover, each production shall be accompanied by a declaration stating that if
8 produced without specific correspondence to particular document request, these are being produced
9 as they are kept in the ordinary course of business. Moreover, the declaration shall either state that
10 all documents responsive to the request have been produced or describe the documents which have
11 been withheld and the basis of the withholding (*e.g.* documents in Mexico not produced because of
12 inaccessibility, documents older than 10 years not produced because clearly irrelevant, etc.). If the
13 responding party believes there are terms in the request which are ambiguous or that the request is
14 overbroad, it shall immediately call a meet and confer with opposing counsel to reach a clarification
15 or modification prior to timely responding to the request.

16 3. Discovery request must be responded to within the time frames established by the
17 Federal and local rules.

18 4. No party shall withhold discovery responses or delay deposition solely on the ground
19 that its requests have not been timely responded to.

20 5. In the event of a future dispute, rather than filing a formal motion, the parties, after
21 meeting and conferring, shall file a joint letter not exceeding four (4) pages total certifying they have
22 met and conferred in person (stating the place and length of time for the meeting) and describing the
23 specific disputes and their respective positions as to each such dispute.

24 The parties shall report to this Court by May 17, 2006 whether the disputes have been
25 resolved.

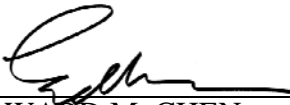
26 As to Plaintiff's motion to compel (Docket No. 37), Defendant has agreed to produce
27 Dolores Reyes for deposition prior to the mediation, thereby DENYING as moot that part of the
28 motion. Regarding compelling Defendants' counsel to communicate settlement offers, that is a

1 matter that should be discussed with Judge Laporte, as the settlement judge, in advance of the June
2 settlement conference.

3 This order disposes of Docket No. 37 and defers ruling on Docket No. 28.

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5 IT IS SO ORDERED.

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7 Dated: May 5, 2006

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9 EDWARD M. CHEN
10 United States Magistrate Judge
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